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8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **LAMECK NYAKWEBE,**

12 Holder of License No. S014278
As a Pharmacist
13 In the State of Arizona

Board Case No. 09-0009-PHR

**CONSENT AGREEMENT
FOR CIVIL PENALTY**

14

15 **RECITALS**

16 In the interest of a prompt and judicious settlement of this case, consistent with the
17 public interest, statutory requirements and the responsibilities of the Arizona State Board
18 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Lameck Nyakweba
19 ("Respondent"), holder of Pharmacist License Number S014278 in the State of Arizona,
20 and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law
21 and Order ("Consent Agreement") as a final disposition of this matter.

22 1. Respondent has read and understands this Consent Agreement and has had
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
24 opportunity to discuss this Consent Agreement with an attorney.

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1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning the above-captioned matter, at which hearing he could present
3 evidence and cross examine witnesses. By entering into this Consent Agreement,
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or
6 any other administrative and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against him.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3578 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. Respondent acknowledges and agrees that, upon signing this Consent
24 Agreement and returning this document to the Board's Executive Director, he may not
25 revoke his acceptance of the Consent Agreement or make any modifications to the
26

1 document regardless of whether the Consent Agreement has been signed by the
2 Executive Director. Any modification to this original document is ineffective and void
3 unless mutually agreed by the parties in writing.

4 9. Respondent understands that the Consent Agreement shall not become
5 effective unless and until adopted by the Board and signed by its Executive Director.

6 10. If a court of competent jurisdiction rules that any part of this Consent
7 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
8 shall remain in full force and effect.

9 11. Respondent understands and agrees that if the Board does not adopt this
10 Consent Agreement, he will not assert as a defense that the Board's consideration of this
11 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

12 12. Respondent understands that this Consent Agreement is a public record that
13 may be publicly disseminated as a formal action of the Board and may be reported as
14 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
15 Protection Data Bank.

16 13. Respondent understands that any violation of this Consent Agreement
17 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
18 1901.01(B)(20), -1927(A)(1).

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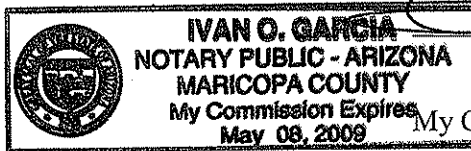
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1 ACCEPTED AND AGREED BY RESPONDENT

2
3 [Signature]
4 Lameck Nyakweba

Dated: 12/17/08

5 Subscribed and sworn to before me in the County of Maricopa State of Arizona
6 this 17 day of December, 2008, by Lameck Nyakweba.



[Signature]
NOTARY PUBLIC

My Commission expires: 05-08-09

10 FINDINGS OF FACT

11 1. The Board is the duly constituted authority for licensing and regulating the
12 practice of pharmacy in the State of Arizona.

13 2. Respondent is the holder of license number S014278 to practice as a
14 pharmacist in the State of Arizona.

15 3. During all relevant times to these findings, Respondent was the owner and
16 pharmacist in charge of Avondale Neighborhood Pharmacy (the "Pharmacy") in
17 Avondale, Arizona.

18 4. In an attempt to acquire a portion of the internship training hours required
19 for licensure under Arizona Administrative Code R4-23-303, Dorsah Gariba ("Gariba")
20 worked as a pharmacy intern at the Pharmacy for several months in 2007. Respondent
21 served as the preceptor pharmacist for Gariba.
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5. In March 2008, Respondent completed and signed a Quarterly Report of Intern Training for Gariba which stated that Gariba worked 470 hours for the week ending March 21, 2008.

6. Respondent knew and intended at the time he completed and signed the Quarterly Report of Intern Training that the document would be submitted to the Board.

7. Respondent subsequently told the Board's investigator, Ed Hunter, that Gariba had worked at the Pharmacy for several months in 2007, but had not worked at the Pharmacy in 2008.

CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter and over Respondent pursuant to A.R.S. § 32-1901 *et seq.*

2. The Board may discipline a pharmacist who has engaged in unprofessional conduct. A.R.S. § 32-1927(A)(1).

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1901.01(B)(17) (Knowingly filing with the Board any application, renewal or other document that contains false or misleading information).

4. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1901.01(B)(18) (Providing false or misleading information or omitting material information in any communication to the Board or the Board's employees or agents).

5. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-901.01(B)(19) (Violating or attempting to violate,

1 directly or indirectly, or assisting in or abetting in the violation of, or conspiring to
2 violate the Board's statutes or rules).

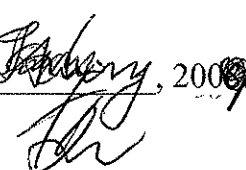
3 **ORDER**

4 Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY
5 ORDERED THAT:

6 1. Respondent shall pay a civil penalty of \$500.00 within six (6) months of the
7 effective date of this Order.

8 2. Within forty-five (45) days of the effective date of this Order, Respondent
9 shall successfully take and pass the MPJE. Respondent must promptly supply proof of
10 successful completion of the MPJE to the Board.

11 3. Respondent shall not act as a preceptor pharmacist for a period of thirty-six
12 (36) months following the effective date of this Order.

13
14 DATED this 30th day of February, 2009
15 

16 ARIZONA STATE BOARD OF PHARMACY

17 (Seal)

18
19 By: 
20 HAL WAND, R.Ph.
21 Executive Director
22
23
24
25
26

1 ORIGINAL OF THE FORGOING FILED
2 this 30 day of Jan, 2008, with:
2009 TWP

3 Arizona State Board of Pharmacy
4 1700 West Washington, Suite 250
5 Phoenix, Arizona 85007

6 EXECUTED COPY OF THE FOREGOING MAILED
7 BY CERTIFIED MAIL

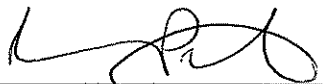
8 this 30 day of Jan, 2008, to:
2009 TWP

9 Lameck Nyakweba
10 13129 W. Coronado Rd
11 Goodyear, Arizona 85395
12 Respondent

13 EXECUTED COPY OF THE FOREGOING MAILED
14 this 30 day of Jan, 2008, to:
2009 TWP

15 Solomon O. Kanu
16 The Law Office of Kanu & Associates, P.C.
17 111 W. Monroe, Suite 716
18 Phoenix, Arizona 85003-0001

19 Elizabeth A. Campbell
20 Assistant Attorney General
21 1275 W. Washington Street, CIV/LES
22 Phoenix, Arizona 85007
23 Attorneys for the State of Arizona

24 
25 _____

26 #313605

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